

1 A bill to be entitled

2 An act relating to sexual predators and offenders;
3 amending s. 322.141, F.S.; requiring distinctive markings
4 for driver's licenses and identification cards issued to
5 persons who are designated as sexual predators or subject
6 to registration as sexual offenders; amending s. 322.212,
7 F.S.; prohibiting the alteration of sexual predator or
8 sexual offender markings on driver's licenses or
9 identification cards, for which there are criminal
10 penalties; amending s. 775.21, F.S.; requiring sexual
11 predators to obtain a distinctive driver's license or
12 identification card; amending s. 943.0435, F.S.; requiring
13 sexual offenders to obtain a distinctive driver's license
14 or identification card; amending s. 944.607, F.S.;
15 requiring specified offenders who are under the
16 supervision of the Department of Corrections but are not
17 incarcerated to obtain a distinctive driver's license or
18 identification card; amending s. 1012.465, F.S.; revising
19 provisions relating to background screenings of certain
20 noninstructional school district employees and other
21 specified individuals; creating s. 1012.4561, F.S.;
22 providing definitions; prohibiting authorized individuals
23 who are designated as sexual predators, subject to
24 registration as a sexual offenders, or who appear on the
25 National Sex Offender Public Registry from being present
26 on school grounds; providing criminal penalties; requiring
27 authorized individuals working on school grounds to be
28 subject to a check of Florida driver's licenses or
29 identification cards for the purposes of ascertaining

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30 their sexual offender and sexual predator status and
31 checked against the National Sex Offender Public Registry;
32 providing duties for certain authorized individuals;
33 providing penalties; allowing school superintendents on a
34 case-by-case basis to require certain individuals to
35 undergo a fingerprint-based background screening to meet
36 specified standards; providing for submission of
37 fingerprints; providing for fees; requiring creation of an
38 electronic system for sharing screening results among
39 school districts; providing for storage, use, and purging
40 of fingerprints submitted for background checks; providing
41 rulemaking authority to the Department of Law Enforcement;
42 requiring certain individuals to report certain offenses;
43 providing penalties; providing an exception; providing
44 that no provision of the section shall give rise to
45 private civil liability or create a private cause of
46 action for monetary damages; providing rulemaking
47 authority to the school boards; providing effective dates.

48
49 Be It Enacted by the Legislature of the State of Florida:

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51 Section 1. Effective August 1, 2006, subsection (3) is
52 added to section 322.141, Florida Statutes, to read:

53 322.141 Color or markings of certain licenses or
54 identification cards.--

55 (3) All licenses for the operation of motor vehicles or
56 identification cards originally issued or reissued by the
57 department to persons who are designated as sexual predators
58 under s. 775.21 or subject to registration as sexual offenders

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59 under s. 943.0435 shall have on the front of the license the
60 following:

61 (a) For a person designated as a sexual predator under s.
62 775.21, the marking "775.21, F.S."

63 (b) For a person subject to registration as a sexual
64 offender under s. 943.0435, the marking "943.0435, F.S."

65 Section 2. Effective August 15, 2006, paragraph (c) is
66 added to subsection (5) of section 322.212, Florida Statutes, to
67 read:

68 322.212 Unauthorized possession of, and other unlawful acts
69 in relation to, driver's license or identification card.--

70 (5)

71 (c) It is unlawful for any person to have in his or her
72 possession a driver's license or identification card upon which
73 the sexual predator or sexual offender markings required by s.
74 322.141 are not displayed or have been altered.

75 Section 3. Paragraph (f) of subsection (6) of section
76 775.21, Florida Statutes, is amended to read:

77 775.21 The Florida Sexual Predators Act.--

78 (6) REGISTRATION.--

79 (f) Within 48 hours after the registration required under
80 paragraph (a) or paragraph (e), a sexual predator who is not
81 incarcerated and who resides in the community, including a sexual
82 predator under the supervision of the Department of Corrections,
83 shall register in person at a driver's license office of the
84 Department of Highway Safety and Motor Vehicles and shall present
85 proof of registration. At the driver's license office the sexual
86 predator shall:

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1. If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent or temporary residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The

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115 driver's license or identification card issued shall comply with
116 s. 322.141(3).

117 3. Provide, upon request, any additional information
118 necessary to confirm the identity of the sexual predator,
119 including a set of fingerprints.

120
121 The sheriff shall promptly provide to the department the
122 information received from the sexual predator.

123 Section 4. Subsection (3) of section 943.0435, Florida
124 Statutes, is amended to read:

125 943.0435 Sexual offenders required to register with the
126 department; penalty.--

127 (3) Within 48 hours after the report required under
128 subsection (2), a sexual offender shall report in person at a
129 driver's license office of the Department of Highway Safety and
130 Motor Vehicles, unless a driver's license or identification card
131 that complies with the requirements of s. 322.141(3) was
132 previously secured or updated under s. 944.607. At the driver's
133 license office the sexual offender shall:

134 (a) If otherwise qualified, secure a Florida driver's
135 license, renew a Florida driver's license, or secure an
136 identification card. The sexual offender shall identify himself
137 or herself as a sexual offender who is required to comply with
138 this section and shall provide proof that the sexual offender
139 reported as required in subsection (2). The sexual offender shall
140 provide any of the information specified in subsection (2), if
141 requested. The sexual offender shall submit to the taking of a
142 photograph for use in issuing a driver's license, renewed

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license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued shall comply with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

Section 5. Subsection (9) of section 944.607, Florida Statutes, is amended to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.--

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register and obtain a distinctive driver's license or identification card in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register and obtain a distinctive driver's license or identification card as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

Section 6. Subsection (1) of section 1012.465, Florida Statutes, is amended to read:

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170 1012.465 Background screening requirements for certain
171 noninstructional school district employees and other specified
172 individuals ~~contractors~~.--

173 (1) The following individuals ~~Noninstructional school~~
174 ~~district employees or contractual personnel who are permitted~~
175 ~~access on school grounds when students are present, who have~~
176 ~~direct contact with students or who have access to or control of~~
177 ~~school funds~~ must meet level 2 screening requirements as
178 described in s. 1012.32:--

179 (a) Noninstructional school district employees who have
180 direct contact with students.

181 (b) Other individuals who are specifically authorized by
182 the school district to perform services for compensation that
183 involve direct contact with students.

184 (c) Noninstructional school district personnel who have
185 access to or control of school funds.

186 (d) Any other individuals who, for compensation, are
187 authorized to have access to or control of school funds.

188 ~~Contractual personnel shall include any vendor, individual, or~~
189 ~~entity under contract with the school board.~~

190 Section 7. Section 1012.4561, Florida Statutes, is created
191 to read:

192 1012.4561 Individuals permitted access to school grounds
193 for business or employment purposes when students are present;
194 exclusions.--

195 (1) As used in this section, the term:

196 (a) "Authorized individual" means any individual who is
197 authorized to have access to school grounds for business or
198 employment purposes when students are present, other than a

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199 school district employee or any other individual referred to in
200 s. 1012.465(1).

201 (b) "Contractor" means a person or an entity, regardless of
202 form, that is engaged by the school district to provide goods or
203 services and that, in furtherance of such engagement, employs
204 authorized individuals or subcontracts with others who employ
205 authorized individuals. The term "contractor" also includes an
206 authorized individual who is directly engaged by the school
207 district to provide goods or services.

208 (c) "School grounds" means the buildings and grounds of any
209 public prekindergarten, kindergarten, elementary school, middle
210 school, junior high school, high school, or secondary school,
211 together with the school district land on which the buildings are
212 located. The term "school grounds" does not include:

213 1. Any other facilities or locations where school classes
214 or activities may be located or take place;

215 2. The buildings and grounds of any public prekindergarten,
216 kindergarten, elementary school, middle school, junior high
217 school, high school, or secondary school or contiguous school
218 district land during any time period in which students are not
219 permitted access; or

220 3. Any building described in this paragraph during any
221 period in which it is used solely as a career or technical center
222 under part IV of chapter 1004.

223 (2) An authorized individual who is designated as a sexual
224 predator under s. 775.21, who is subject to registration as a
225 sexual offender under s. 943.0435, or who appears on the National
226 Sex Offender Public Registry maintained by the United States
227 Department of Justice shall not be entitled to be present on

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228 school grounds. An authorized individual who is present on school
229 grounds in violation of this subsection commits a misdemeanor of
230 the first degree, punishable as provided in s. 775.082 or s.
231 775.083.

232 (3)(a) Before allowing an authorized individual to have
233 access to school grounds, a contractor must provide the school
234 district with certification that the contractor has:

235 1. For an individual who holds a Florida driver's license
236 or identification card, examined the individual's driver's
237 license or identification card and confirmed that the driver's
238 license or identification card does not have the markings
239 required by s. 322.141 indicating that the person is a sexual
240 predator or subject to registration as a sexual offender.

241 2. Checked the individual against the National Sex Offender
242 Public Registry and confirmed that nothing in that registry
243 requires that the individual be denied access to school grounds.

244
245 The contractor shall make its records supporting the
246 certification available for inspection at the request of the
247 school district.

248 (b)1. Each authorized individual who has been issued a
249 Florida driver's license or identification card shall possess the
250 card at all times while working on school grounds and shall show
251 it to any school district employee upon request.

252 2. Each authorized individual who has not been issued or
253 does not have in his or her possession a Florida driver's license
254 or identification card shall submit to a check against the
255 National Sex Offender Public Registry upon request of any school
256 district employee to confirm that nothing in that registry

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requires that the individual be denied access to school grounds.

(c) Any person who knowingly and willfully violates this subsection and who holds a professional license under chapter 455 commits an act constituting grounds for discipline as described in s. 455.227(1)(a). Any person who knowingly and willfully violates this subsection and who holds a professional license under chapter 456 commits an act constituting grounds for discipline as described in s. 456.072(1)(a).

(d) Each authorized individual must inform his or her employer or the party with whom he or she is under contract within 48 hours if charged, while he or she is employed or under contract in that capacity, with an offense for which a conviction could lead to the person being designated as a sexual predator under s. 775.21 or subject to registration as a sexual offender under s. 943.0435. A person who willfully fails to comply with this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) On a case-by-case basis, a superintendent may require any authorized individual to undergo a fingerprint-based background screening and meet level 2 screening requirements as described in s. 1012.32. A recheck of such authorized individual shall be performed at least once every 3 years.

(a) For the initial check of each individual subject to the background criminal history check requirements in this subsection, the individual shall file a complete set of fingerprints. Fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing.

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285 (b) The results of each fingerprint-based background
286 screening shall be reported to the requesting district.

287 (c) The cost of the initial check of state and federal
288 criminal history and a recheck every 3 years may be borne by the
289 district school board, the individual fingerprinted, or the
290 individual's employer. Any fee for the initial check of state and
291 federal criminal history and a recheck every 3 years per person
292 fingerprinted charged by a district school board may not exceed
293 the sum of fees charged by the Department of Law Enforcement, the
294 Federal Bureau of Investigation, and the Department of Education,
295 plus an additional administrative fee specified by the school
296 board, which may not exceed 25 percent of the sum of the other
297 fees specified in this paragraph.

298 (d) For any required checks during the 3-year period
299 subsequent to the initial check or the 3-year period subsequent
300 to a recheck, the individual shall inform the district school
301 board requiring the check that he or she has already completed a
302 current records check and that district shall, without charge to
303 the individual, check the individual's history using the shared
304 system provided in subsection (5).

305 (e) An authorized individual who is subject to the case-by-
306 case screening provisions of this subsection must inform the
307 contractor and the school district within 48 hours if he or she
308 is charged with any offense that would require him or her to be
309 barred from school grounds under subsection (2). A person who
310 willfully fails to comply with this paragraph commits a felony of
311 the third degree, punishable as provided in s. 775.082, s.
312 775.083, or s. 775.084.

313 (5) (a) The Department of Law Enforcement shall implement a
314 system that allows for criminal history record information
315 provided to a school district to be shared with other school
316 districts through a secure website or other electronic means.

317 (b) As authorized by law, the Department of Law Enforcement
318 shall retain the fingerprints submitted by the school districts
319 pursuant to this subsection to the Department of Law Enforcement
320 for a criminal history background screening in a manner provided
321 by rule and enter the fingerprints in the statewide automated
322 fingerprint identification system authorized by s. 943.05 (2) (b).
323 The fingerprints shall thereafter be available for all purposes
324 and uses authorized for arrest fingerprint cards entered into the
325 statewide automated fingerprint identification system under s.
326 943.051.

327 (c) As authorized by law, the Department of Law Enforcement
328 shall search all arrest fingerprint cards received under s.
329 943.051 against the fingerprints retained in the statewide
330 automated fingerprint identification system under paragraph (b).

331 (d) School districts may participate in the search process
332 described in this subsection by payment of an annual fee to the
333 Department of Law Enforcement.

334 (e) A fingerprint retained pursuant to this subsection
335 shall be purged from the automated fingerprint identification
336 system 3 years from the date the fingerprint was initially
337 submitted. The Department of Law Enforcement shall set the amount
338 of the annual fee to be imposed upon each participating agency
339 for performing these searches and establishing the procedures for
340 the retention of fingerprints and the dissemination of search
341 results. The fee may be borne as provided by law. Fees may be

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342 waived or reduced by the executive director of the Department of
343 Law Enforcement for good cause shown.

344 (f) The Department of Law Enforcement may adopt rules under
345 ss. 120.536(1) and 120.54 to implement the provisions of this
346 subsection.

347 (6) This section does not apply to law enforcement
348 officers, as defined in s. 943.10, Florida Statutes, assigned by
349 their employing agencies to work on school grounds as part of
350 their official duties or first responder personnel responding to
351 a request for assistance. For purposes of this paragraph, the
352 term "first responder personnel" includes law enforcement
353 officers, as defined in s. 943.10, emergency medical technicians,
354 paramedics, and firefighters.

355 (7) No provision of this section shall give rise to any
356 private civil liability, nor shall this section be construed to
357 create a private cause of action for monetary damages.

358 (8) A school board may adopt rules pursuant to ss.
359 120.536(1) and 120.54 to implement this section.

360 Section 8. Except as otherwise expressly provided in this
361 act, this act shall take effect July 1, 2006.